

HOUSE BILL No. 1723

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-10.

Synopsis: Regulation of endangered industries. Provides for coordinating Indiana rules that affect Indiana endangered industries with national policies.

Effective: Upon passage.

Murphy, Hasler, Stevenson

January 21, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1723

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-10 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 10. Restrictions on Rulemaking**

5 **Sec. 1. The definitions in IC 4-22-2 apply throughout this**
6 **chapter.**

7 **Sec. 2. As used in this chapter, "NAICS" refers to the six (6)**
8 **digit North American Industry Classification System (NAICS)**
9 **adopted by the United States Office of Management and Budget to**
10 **classify establishments by type of business activity.**

11 **Sec. 3. As used in this chapter, "industry" refers to a grouping**
12 **of business establishments:**

13 (1) identified by NAICS code number; and
14 (2) sharing two (2) (sector), three (3) (subsector), four (4)
15 (industry group), five (5) (industry), or six (6) (U.S. industry)
16 of the six (6) NAIC digits assigned to a business establishment.

17 **Sec. 4. As used in this chapter, "economic decline" means a**



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business condition in which both of the following occur in an industry in the same year:

- (1) An overall decrease in employment of at least ten percent (10%).
- (2) An average production decline of at least ten percent (10%).

Sec. 5. As used in this chapter, "Indiana endangered industry" means an industry that meets all the following criteria:

- (1) The industry has had a substantial presence in Indiana for at least twenty (20) years.
- (2) The industry has had an economic decline in at least two (2) of the immediately preceding calendar years caused by any combination of the following:
 - (A) Foreign competition.
 - (B) Regulatory mandates.
 - (C) Health care insurance rates or other inflated business costs.
 - (D) Decline in consumer demand.
- (3) The industry has been recognized as qualifying under subdivisions (1) through (2) in a:
 - (A) written declaration by the lieutenant governor; or
 - (B) concurrent resolution adopted by both houses of the general assembly.

Sec. 6. As used in this chapter, "national policies" refers to standards of conduct for an industry or part of an industry that:

- (1) are established in a federal statute or by a federal agency;
- (2) concern the same subject as a state rule; and
- (3) do not preempt state authority to establish a more stringent standard of conduct.

Sec. 7. The authority of an agency to adopt a rule, including an agency subject to IC 13-14-9, that establishes a more stringent standard than the related national policies is suspended to the extent that it requires an Indiana endangered industry to comply with a standard of conduct that exceeds the standard established in the related national policies. The period of the suspension is equal to the lesser of the following:

- (1) Five (5) years after the industry is recognized as an Indiana endangered industry by means of a procedure described under section 5(3) of this chapter.
- (2) The period specified in the document recognizing the industry as an Indiana endangered industry under section 5(3) of this chapter.



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1 **Sec. 8. A rule is not effective with respect to an Indiana**
2 **endangered industry during the period of the suspension described**
3 **in section 7 of this chapter to the extent that it establishes a more**
4 **stringent standard of conduct than the related national policies.**
5 **For purposes of regulating the Indiana endangered industry, the**
6 **rule shall be treated as establishing a standard of conduct not more**
7 **stringent than the related national policies.**

8 **Sec. 9. Not later than August 1 of each year, an agency shall**
9 **complete a review of its rules to identify:**

- 10 **(1) rules that concern the same subject as national policies;**
11 **(2) the standard of conduct established by the related national**
12 **policies;**
13 **(3) the extent to which the affected rules establish a more**
14 **stringent standard of conduct than the related national**
15 **policies; and**
16 **(4) the extent to which the affected rules require changes to**
17 **implement this chapter.**

18 **Sec. 10. Not later than September 1 of each year, an agency shall**
19 **submit a report to the executive director of the legislative services**
20 **agency describing its findings under section 9 of this chapter.**

21 **Sec. 11. If the agency determines that any of its rules:**

- 22 **(1) establish a standard of conduct that is more stringent than**
23 **the related national policies; and**
24 **(2) require changes to implement this chapter;**
25 **the agency shall adopt rules to make the changes necessary to**
26 **implement this chapter.**

27 **SECTION 2. An emergency is declared for this act.**

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